

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE:

Michele R. Lotz,

Debtor.

X

X

Return Date & Time:  
December 19, 2017 @ 11:00AM

Chapter 13  
Case No. 17-37087-cgm

**NOTICE OF MOTION TO  
CONTINUE AUTOMATIC STAY**

SIRS:

**PLEASE TAKE NOTICE**, upon the annexed Motion, the Debtor, will move before Honorable Cecelia G. Morris, Chief United States Bankruptcy Judge, at the Courthouse located at 355 Main Street, Poughkeepsie, New York 12601 on the 19th day of December 2017 at 11:00 o'clock in the forenoon or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. Sec.362 (c) (3) (A) (B) and (C) continuing the automatic stay in this case as to all creditors, and for such other and further relief as the Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE**, that answering papers, if any, shall be served and filed at least three (3) days prior to the return date thereof.

Dated: Poughkeepsie, New York  
December 11, 2017

Yours, etc.

/S/ Julius A. Rivera, Jr., Esq.

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Julius A. Rivera, Jr., Esq.  
Attorney for Debtor  
309 Mill Street  
Poughkeepsie, NY 12601  
(845) 452-1422

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

Return Date & Time:  
December 19, 2017 @ 11:00AM

IN RE:

Michele R. Lotz,

X

Case No. 17-37087-cgm  
Chapter 13

**MOTION**

Debtors.

X

**TO: Honorable Cecelia G. Morris Chief U.S. Bankruptcy Judge**

1. This case was filed on December 8, 2017. The Debtor's previous Chapter 13 case was pending within the one year immediately prior to the filing of this petition. The previous case was filed on February 14, 2014 under case number 14-35270, the case was dismissed upon the Trustee's Motion by Order dated November 30, 2017. The legal basis of the dismissal was 11 U.S.C. Sec. 1307 (c)(1) and (c)(6).
2. Shortly after the plan in the previous case was confirmed, the debtors husbands' father was diagnosed with bladder cancer and his mother with dementia. The debtors' husband financial contribution to the household substantially decreased because he had to care for his elderly parents. He missed much work and lost employment due to same. The debtor and her husband had to incur the expense of relocating the husbands parents. They defaulted on their mortgage. The debtors husbands father passed away in January of 2017 and the debtor and her husband had to pay for the funeral arrangements.
3. There has been a substantial change in circumstances in that the debtors' husband no longer is required to care for his father, he having passed away. Also the debtors' husbands mother is now also cared for by other family and friends.

4. Debtor is acting in good faith in the filing of this petition as she fully intends to comply with all Chapter 13 requirements and there has been a substantial change of circumstances since the dismissal of the previous case.

**WHEREFORE**, it is respectfully requested that the Motion to continue the Automatic Stay be granted and that such other and further relief be entered as the Court deems just and proper.

Dated: Poughkeepsie, New York  
December 11, 2017

/S/ Julius A. Rivera, Jr., Esq.

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Julius A. Rivera, Jr., Esq.  
Attorney for Debtor  
309 Mill Street  
Poughkeepsie, NY 12601  
(845) 452-1422

## **MEMORANDUM OF LAW ON BEHALF OF THE DEBTOR**

### **PRELIMINARY STATEMENT**

This Memorandum of Law is respectfully submitted in support of the motion of the Debtors for an Order continuing the automatic stay.

### **STATEMENT OF FACTS**

The statement of facts in support of the Debtors motion is contained in the Motion attached hereto.

### **ARGUMENT**

The court in this case should extend the automatic stay pursuant to 11 U.S.C. Section 362(c)(3)(A)(B) and(C) as this case has been filed in good faith.

The Debtor's previous case was dismissed upon the Trustee's Motion to Dismiss based upon Bankruptcy Code Provisions 11 U.S.C. Sec. 1307 (c)(1) and (c)(6). Section 362 (c)(3) (C)(i) (III) states that a case is presumptively filed not in good faith if there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next or previous or any other reason to provide that the case will conclude with a confirmed plan that will be fully performed.

It is respectfully submitted that the facts and circumstances as stated in the attached Motion are sufficient to rebut this presumption of bad faith. The facts and circumstances support a finding that there has been a change in circumstances since the dismissal of the prior case giving reason to conclude that if this court extends the automatic stay, the Debtors will be able to confirm and fully perform the confirmed plan.

## CONCLUSION

For the forgoing reasons, it is respectfully requested that the Court Order that the automatic stay be continued as to all creditors.

Respectfully submitted,

/S/ Julius A. Rivera, Jr., Esq.

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Julius A. Rivera, Jr., Esq.  
Attorney for Debtors  
309 Mill Street  
Poughkeepsie, NY 12601  
(845) 452-1422

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X Case No. 17-37087-cgm  
IN RE: Chapter 13

Michele R. Lotz,

Debtor.

-----X

**ORDER CONTINUING AUTOMATIC STAY**

The court having conducted a hearing on December 19, 2017, and on the record, based upon said hearing, granted a further extension of the stay in this case as to all creditors to and including , 2018, it is

**ORDERED** that the Automatic Stay in this case as to all creditors is continued to and including .

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In Re:

Michele R. Lotz,

Case No. 17-37087-cgm  
Chapter 13

Debtors.

-X-

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the Notice of Motion, Motion to continue the Automatic Stay with memorandum of Law and proposed order was furnished to the following parties on the 11th day of December, 2017 by United States first-class mail and/or by electronic notification:

Jeffrey L. Sapir, Esq.  
Chapter 13 Trustee  
399 Knollwood Road, Suite 102  
White Plains, New York 10603

Office of the U.S. Trustee  
74 Chapel Street, Suite 200  
Albany, NY 12207

Michele R. Lotz  
242 Cream Street  
Poughkeepsie, NY 12601

All Creditors on the attached list

Dated: Poughkeepsie, New York  
December 11, 2017

/s/Julius A. Rivera, Jr., Esq.  
Julius A. Rivera, Jr., Esq.  
Attorney for Debtors  
309 Mill Street  
Poughkeepsie, New York 12601  
(845) 452-1422

Label Matrix for local noticing  
0208-4  
Case 17-37087-cgm  
Southern District of New York  
Poughkeepsie  
Mon Dec 11 12:13:41 EST 2017

BARCLAYS BANK DELAWARE  
100 S WEST ST  
WILMINGTON, DE 19801-5015

Poughkeepsie Division  
355 Main Street  
Poughkeepsie, NY 12601-3315

BANK OF AMERICA  
NC4-105-03-14  
PO BOX 26012  
GREENSBORO, NC 27420-6012

CAPITAL ONE  
ATTN: GENERAL CORRESPONDENCE/BANKRUPTCY  
PO BOX 30285  
SALT LAKE CITY, UT 84130-0285

CARRINGTON MORTGAGE SERVICE, LLC  
PO BOX 3489  
ANAHEIM, CA 92803-3489

CHASE CARD SERVICES  
ATTN: CORRESPONDENCE  
PO BOX 15278  
WILMINGTON, DE 19850-5278

COLLECTION BUREAU HUDSON VALLEY, INC.  
PO BOX 831  
NEWBURGH, NY 12551-0831

COMENITY BANK  
PO BOX 182125  
COLUMBUS, OH 43218-2125

COMENITY BANK / THE LIMITED  
ATTN: BANKRUPTCY  
PO BOX 182125  
COLUMBUS, OH 43218-2125

COMENITY BANK/FASHBUG  
PO BOX 182789  
COLUMBUS, OH 43218-2789

COMENITY BANK/LANE BRYANT  
ATTN: BANKRUPTCY  
PO BOX 182125  
COLUMBUS, OH 43218-2125

COMENITY BANK/LANE BRYANT  
PO BOX 182125  
COLUMBUS, OH 43218-2125

COMENITY BANK/VICTORIA SECRET  
ATTN: BANKRUPTCY  
PO BOX 182125  
COLUMBUS, OH 43218-2125

COMENITY BKL/ULTA  
PO BOX 182125  
COLUMBUS, OH 43218-2125

COMENITY CAPITAL BANK/HSN  
PO BOX 182125  
COLUMBUS, OH 43218-2125

COMENITYCAPITAL/MODELL  
COMENITY BANK  
PO BOX 182125  
COLUMBUS, OH 43218-2125

FINGERHUT  
BANKRUPTCY DEPT  
6250 RIDGEWOOD RD  
SAINT CLOUD, MN 56303-0820

GENESIS BANKCARD SRVS  
15220 NW GREENBRIER PKWY STE 200  
BEAVERTON, OR 97006-5762

HUDSON VALLEY FEDERAL  
1099 MORTON BLVD  
KINGSTON, NY 12401-1503

HUDSON VALLEY FEDERAL  
159 BARNEGAT RD  
POUGHKEEPSIE, NY 12601-5454

KOHLS/CAPITAL ONE  
KOHLS CREDIT  
PO BOX 3043  
MILWAUKEE, WI 53201-3043

MAZDA AMER CREDIT  
ATTN: CUSTOMER ASSISTANCE CENTER  
PO BOX 19734  
IRVINE, CA 92623-9734

PRA Receivables Management, LLC  
PO Box 41021  
Norfolk, VA 23541-1021

RHINEBECK BANK  
2 JEFFERSON PLZ  
POUGHKEEPSIE, NY 12601-4060

SYNCB/HOME DSN OUTDR L  
ATTN: BANKRUPTCY  
PO BOX 965060  
ORLANDO, FL 32896-5060

SYNCB/MUSIC  
ATTN: BANKRUPTCY  
PO BOX 965060  
ORLANDO, FL 32896-5060

SYNCHRONY BANK/ JC PENNEYS  
ATTN: BANKRUPTCY  
PO BOX 965060  
ORLANDO, FL 32896-5060

SYNCHRONY BANK/AMAZON  
ATTN: BANKRUPTCY  
PO BOX 965060  
ORLANDO, FL 32896-5060

SYNCHRONY BANK/CARE CREDIT  
ATTN: BANKRUPTCY  
PO BOX 965060  
ORLANDO, FL 32896-5060

SYNCHRONY BANK/PC RICHARDS & SONS  
ATTN: BANKRUPTCY  
PO BOX 965060  
ORLANDO, FL 32896-5060

SYNCHRONY BANK/QVC  
ATTN: BANKRUPTCY  
PO BOX 965060  
ORLANDO, FL 32896-5060

SYNCHRONY BANK/TJX  
ATTN: BANKRUPTCY  
PO BOX 965060  
ORLANDO, FL 32896-5060

SYNCHRONY BANK/WALMART  
ATTN: BANKRUPTCY  
PO BOX 965060  
ORLANDO, FL 32896-5060

TARGET  
C/O FINANCIAL & RETAIL SRVS  
MAILSTOPN BT POB 9475  
MINNEAPOLIS, MN 55440-9475

United States Trustee  
74 Chapel Street  
Albany, NY 12207-2190

WELLS FARGO BANK NV NA  
PO BOX 31557  
BILLINGS, MT 59107-1557

(p)WELLS FARGO BANK NA  
WELLS FARGO HOME MORTGAGE AMERICAS SERVICING  
ATTN BANKRUPTCY DEPT MAC X7801-014  
3476 STATEVIEW BLVD  
FORT MILL SC 29715-7203

WEFFNB/BOBS DISCOUNT FURNITURE  
PO BOX 10438  
DES MOINES, IA 50306-0438

Jeffrey L. Sapir-13  
As Chapter 13 and 12 Trustee  
399 Knollwood Road  
Suite 102  
White Plains, NY 10603-1936

Julius A. Rivera Jr.  
309 Mill Street  
Poughkeepsie, NY 12601-3115

Michele R. Lotz  
242 Cream Street  
Poughkeepsie, NY 12601-6317

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

WELLS FARGO HM MORTGAG  
8480 STAGECOACH CIR  
FREDERICK, MD 21701

End of Label Matrix	
Mailable recipients	41
Bypassed recipients	0
Total	41